

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2357

AN ACT

AMENDING SECTION 15-103, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-901.04; REPEALING LAWS 2005, CHAPTER 274, SECTIONS 2 AND 3; RELATING TO SCHOOL DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-103, Arizona Revised Statutes, is amended to
3 read:

4 15-103. School districts; financial mismanagement;
5 intervention; definitions

6 A. The state board of education shall review allegations of school
7 district insolvency and gross mismanagement. The state board shall give the
8 school district an opportunity to respond to these allegations at a public
9 meeting. If the state board determines that the school district is
10 insolvent, ~~or~~ has grossly mismanaged its finances **OR HAS GROSSLY MISMANAGED**
11 **ITS OTHER DUTIES**, the state board shall appoint a receiver for that school
12 district.

13 B. The state board shall find a school district insolvent if it finds
14 one or more of the following:

15 1. The school district is unable to pay debts as they fall due or in
16 the usual course of business.

17 2. The salaries of any teachers or other employees have remained
18 unpaid for forty-five days.

19 3. The tuition due another school district or other state institution
20 remains unpaid on or after January 1 of the year following the school year it
21 was due and there is no dispute regarding the validity or amount of the
22 claim.

23 4. The school district has defaulted in payment of its bonds or
24 interest on bonds or in payment of rentals due any state or federal authority
25 or private business for a period of sixty calendar days and no action has
26 been initiated within that period of time to make payment.

27 5. The school district has contracted for any loan not authorized by
28 law.

29 ~~6. The school district has accumulated and has operated with a deficit~~
30 ~~equal to five per cent or more of the school district's revenue control limit~~
31 ~~for any fiscal year within the past two fiscal years.~~

32 ~~7.~~ 6. The school district's warrants have not been honored for
33 payment by the school district's servicing bank or by the county treasurer
34 and the warrants have remained unpaid for a period of more than sixty
35 calendar days.

36 **C. THE STATE BOARD MAY FIND A SCHOOL DISTRICT INSOLVENT IF IT FINDS**
37 **THE SCHOOL DISTRICT HAS ACCUMULATED AND HAS OPERATED WITH A DEFICIT EQUAL TO**
38 **FIVE PER CENT OR MORE OF THE SCHOOL DISTRICT'S REVENUE CONTROL LIMIT FOR ANY**
39 **FISCAL YEAR WITHIN THE PAST TWO FISCAL YEARS.**

40 ~~C.~~ D. No school district shall be deemed to be insolvent pursuant to
41 subsection B **OR C** of this section if the circumstances are the result of the
42 failure of the state to make any payments of monies due the school district
43 at the time payment is due.

44 ~~D.~~ E. The state board of education shall have jurisdiction over all
45 petitions requesting that a school district be placed in receivership and a

1 receiver be appointed because of the school district's alleged insolvency or
2 gross mismanagement. The state board shall have the burden of demonstrating
3 by a preponderance of the evidence that the school district is insolvent or
4 is engaged in gross mismanagement.

5 ~~E.~~ F. If the state board of education finds that the school district
6 is insolvent or has engaged in gross mismanagement, the state board shall
7 place the school district in receivership and appoint a receiver recommended
8 by the state board. The state board shall develop and adopt a list of
9 qualified receivers to be appointed by the board.

10 ~~F.~~ G. On appointment, the receiver shall begin a full review and
11 investigation of the school district's financial affairs and submit to the
12 state board of education a detailed report listing the findings of that
13 investigation that shall include a financial improvement plan and budget that
14 details how the school district will eliminate any continued gross financial
15 mismanagement and achieve financial solvency. THE STATE BOARD OF EDUCATION
16 SHALL ADOPT RULES THAT SPECIFY THE MANAGEMENT OF THE SCHOOL DISTRICT'S
17 FINANCIAL AFFAIRS BETWEEN THE TIME OF THE RECEIVER'S APPOINTMENT AND THE
18 IMPLEMENTATION OF THE IMPROVEMENT PLAN. The plan shall include a proposed
19 timeline for achieving financial solvency. The receiver shall submit the
20 report within one hundred twenty days after the receiver's appointment. The
21 financial improvement plan approved by the state board of education may
22 authorize the receiver to do any of the following:

23 1. Override any decisions of the school district's governing board or
24 the school district superintendent, or both, concerning the management and
25 operation of the school district, and initiate and make decisions concerning
26 the management and operation of the school district.

27 2. Attend any and all meetings of the school district's governing
28 board and administrative staff.

29 3. Supervise the day-to-day activities of the school district's staff,
30 including reassigning the duties and responsibilities of personnel in a
31 manner that, in the determination of the receiver, best suits the needs of
32 the school district.

33 4. Place on extended leave, suspend or terminate for cause the school
34 district's superintendent or chief financial officer, or both. A person
35 terminated pursuant to this paragraph may appeal the receiver's decision to
36 the state board of education if an appeal is filed with the state board
37 within thirty days of receiving notice of the termination.

38 5. Authorize pupils to transfer from schools operated by the school
39 district to schools operated by another school district that is not currently
40 in receivership.

41 6. Appoint a chief educational officer who shall possess the powers
42 and duties of a school district superintendent. A chief educational officer
43 who is appointed pursuant to this paragraph shall hold a valid administrative
44 certificate.

1 7. Appoint a chief fiscal officer who shall possess the powers and
2 duties of the school district's chief school business official and any other
3 duties regarding budgeting, accounting and other financial matters that are
4 assigned to the school district by law.

5 8. Appoint a competent independent public accountant to audit the
6 accounts of the school district.

7 9. Reorganize the school district's financial accounts, management and
8 budgetary systems to improve financial responsibility and reduce financial
9 inefficiency within the district.

10 10. Establish school district fiscal guidelines and a system of
11 internal controls, including internal administrative controls and internal
12 accounting controls, with provisions for internal audits.

13 11. Cancel or renegotiate any contract, other than contracts of
14 certificated teachers who have been employed by the school district in the
15 capacity of a certificated teacher for more than one year immediately before
16 the date the receiver was appointed, to which the governing board or the
17 school district is a party if the cancellation or renegotiation of the
18 contract will produce needed economies in the operation of the district's
19 schools. The receiver may refuse to reemploy any certificated teacher who
20 has not been employed by the school district for more than the major portion
21 of three consecutive school years as provided in section 15-536.

22 ~~G.~~ H. The receiver's power, authority and duties shall be effective
23 on the date of the receiver's appointment by the state board of education.
24 The receiver shall perform the receiver's duties according to the
25 instructions of the state board of education order and according to law. The
26 receiver shall promptly report any violations of law, including a violation
27 of the uniform system of financial records, to the state board of education.

28 ~~H.~~ I. On review and approval of the state board of education, the
29 receiver shall take all necessary steps to implement the financial
30 improvement plan and budget utilizing those powers identified in the plan as
31 prescribed in subsection ~~F~~ G of this section.

32 ~~I.~~ J. The salary and benefits of the receiver and any officers or
33 employees appointed by the receiver shall be paid by the school
34 district. The state board of education shall determine the salary for the
35 receiver and any officers or employees appointed by the receiver based on
36 amounts recommended by the state board.

37 ~~J.~~ K. The state board of education shall remove the school district
38 from receivership and dismiss the receiver and dismiss any officer or
39 employee appointed by the receiver thirty days after all of the following
40 have occurred:

41 ~~1. The auditor general certifies that the school district has been~~
42 ~~financially solvent for one fiscal year.~~

43 ~~2.~~ 1. The auditor general certifies that the school district's
44 financial records are in compliance with the uniform system of financial
45 records and generally accepted accounting principles.

1 ~~3.~~ 2. The receiver certifies that the school district is no longer
2 engaged in gross mismanagement.

3 ~~4.~~ 3. The state board of education has determined that the school
4 district is able to pay its debts as those debts become due.

5 ~~K.~~ L. The receiver shall submit a quarterly progress report to the
6 state board of education. The first progress report is due ~~on the three~~
7 ~~month anniversary of~~ NINETY DAYS AFTER the receiver's appointment by the
8 state board.

9 ~~L.~~ M. The state board of education shall formally review the
10 receiver's progress every six months. If, based on the quarterly progress
11 reports, the state board determines that the receiver's progress is
12 insufficient, the state board may remove the current receiver and appoint
13 another receiver for the school district.

14 ~~M.~~ N. The state board of education may dismiss the receiver for cause
15 or on a majority vote of no confidence in the receiver of the state board.

16 ~~N.~~ O. The school district shall indemnify the receiver and any
17 officer or employee appointed by the receiver who is made or threatened to be
18 made a party to any litigation by reason of their status under this section
19 if the receiver, officer or employee acted in good faith and in a manner that
20 the receiver, officer or employee reasonably believed to be consistent with
21 the best interest of the school district and if the receiver, officer or
22 employee had no reasonable cause to believe that the conduct was unlawful.

23 ~~O.~~ P. During the period of time that the school district is in
24 receivership, no member, officer, employee or agent of the school district
25 may enter into any contract or incur any liability on behalf of the school
26 district for any purpose if the amount of the contract or liability exceeds
27 the receiver's authorized financial plan and budget for the school
28 district. The receiver may discipline, including, if warranted, imposing a
29 suspension from duty without pay, removal from office or termination of, any
30 school district employee or officer who violates this subsection.

31 ~~P.~~ Q. This section does not create a private cause of action against
32 the school district or its officers, directors, board members or employees.

33 ~~Q.~~ R. The assumption of control of the school district by the
34 receiver shall in no way interfere with the election or reelection of school
35 district governing board members.

36 ~~R.~~ S. This section shall not interfere with a school district's
37 ability to declare bankruptcy under federal law.

38 ~~S.~~ T. The state board of education shall continue to monitor and
39 offer technical assistance to a school district for two years after its
40 removal from receivership.

41 ~~T.~~ U. For the purposes of this section:

42 ~~1. "Delinquent debt" means debts or liability unpaid by the school~~
43 ~~district for a period of more than sixty days from the time of notice.~~

44 ~~2.~~ 1. "Gross mismanagement" means that the school district's officers
45 or employees committed or engaged in gross incompetence or systemic and

1 egregious mismanagement of the school district's finances, ~~or~~ financial
2 records OR OTHER DUTIES.

3 ~~3-~~ 2. "Notice" means written notice personally served or delivered by
4 certified mail, return receipt requested.

5 ~~4-~~ 3. "Receiver" means an individual appointed by the state board of
6 education from the persons recommended by the state board for the purpose of
7 managing a school district placed in receivership by the state board of
8 education.

9 ~~5-~~ 4. "Receivership" means the state or condition of being under the
10 control of the receiver appointed by the state board of education.

11 ~~6-~~ 5. "Superintendent" means the chief executive officer of the
12 school district.

13 Sec. 2. Title 15, chapter 9, article 1, Arizona Revised Statutes, is
14 amended by adding section 15-901.04, to read:

15 15-901.04. School district compliance; withholding of monies

16 IF THE DEPARTMENT OF EDUCATION, THE AUDITOR GENERAL OR THE ATTORNEY
17 GENERAL DETERMINES THAT A SCHOOL DISTRICT IS SUBSTANTIALLY AND DELIBERATELY
18 NOT IN COMPLIANCE WITH THIS TITLE AND IF THE SCHOOL DISTRICT HAS FAILED TO
19 CORRECT THE DEFICIENCY WITHIN NINETY DAYS AFTER RECEIVING NOTICE FROM THE
20 DEPARTMENT OF EDUCATION, THE STATE BOARD OF EDUCATION MAY DIRECT THE
21 SUPERINTENDENT OF PUBLIC INSTRUCTION, PURSUANT TO RULES ADOPTED BY THE STATE
22 BOARD OF EDUCATION, TO WITHHOLD THE MONIES TO WHICH THE SCHOOL DISTRICT WOULD
23 OTHERWISE BE ENTITLED TO RECEIVE FROM THE DATE OF THE DETERMINATION OF
24 NONCOMPLIANCE UNTIL THE DEPARTMENT OF EDUCATION DETERMINES THAT THE SCHOOL
25 DISTRICT IS IN COMPLIANCE WITH THIS TITLE.

26 Sec. 3. Repeal

27 Laws 2005, chapter 274, sections 2 and 3 are repealed.